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Security Council

Fifty-third Year

Provisional

3920th Meeting

Thursday, 27 August 1998, 9.50 p.m.

New York

President:	Mr. Türk	(Slovenia)
Members:	Bahrain	Mr. Buallay
	Brazil	Mr. Amorim
	China	Mr. Shen Guofang
	Costa Rica	Mr. Sáenz Biolley
	France	Mr. Thiebaud
	Gabon	Mr. Dangue Réwaka
	Gambia	Mr. Touray
	Japan	Mr. Konishi
	Kenya	Mr. Amolo
	Portugal	Mr. Monteiro
	Russian Federation	Mr. Lavrov
	Sweden	Mr. Dahlgren
	United Kingdom of Great Britain and Northern Ireland	Mr. Gomersall
	United States of America	Mr. Burleigh

Agenda

Letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/23306, S/23307, S/23308, S/23309 and S/23317)

Letter dated 24 August 1998 from the Acting Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General (S/1998/795)

98-85707 (E)

This record contains the original text of speeches delivered in English and interpretations of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, *within one week of the date of publication*, to the Chief of the Verbatim Reporting Service, room C-178.

The meeting was called to order at 9.50 p.m.

Adoption of the agenda

The agenda was adopted.

Letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America (S/23306, S/23307, S/23308, S/23309 and S/23317)

Letter dated 24 August 1998 from the Acting Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General (S/1998/795)

The President: I should like to inform the Council that I have received letters from the representatives of the Libyan Arab Jamahiriya and the Netherlands, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those two representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Dorda (Libyan Arab Jamahiriya) took a seat at the Council table; Mr. Berteling (Netherlands) took the seat reserved for him at the side of the Council Chamber.

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/1998/795, which contains the text of a letter dated 24 August 1998 from the Acting Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General.

Members of the Council also have before them document S/1998/809, which contains the text of a draft resolution submitted by the United Kingdom of Great Britain and Northern Ireland and the United States of America.

I should like to draw the attention of the members of the Council to documents S/1998/803 and S/1998/808, letters dated 25 and 26 August 1998 respectively, from the Chargé d'affaires *ad interim* of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council.

The first speaker inscribed in my list is the representative of the Libyan Arab Jamahiriya, to whom I give the floor.

Mr. Dorda (Libyan Arab Jamahiriya) (*interpretation from Arabic*): At the outset, it is my pleasure to extend my congratulations to you, Sir, on your presidency of the Security Council for this month. I must also express our appreciation to Ambassador Lavrov of the Russian Federation for his successful leadership of the Council's deliberations last month.

First, merely because two persons were suspected, without any evidence, in connection with an incident that took place many years ago and that did not threaten international peace and security, the Security Council adopted resolution 731 (1992) in clear contravention of paragraph 3 of Article 27 of the Charter, as well as of Articles 32, 33 and 36.

Second, the Libyan Arab Jamahiriya immediately lodged a protest with the International Court of Justice in accordance with the Charter of the United Nations.

Third, the Security Council thereafter adopted resolution 748 (1992) and then resolution 883 (1993), which imposed an embargo on Libya, under Chapter VII of the Charter, but in contravention of the Charter, and on the basis of resolution 731 (1992), which is also in contravention of the Charter.

Fourth, there have been many developments regarding this matter over the past seven years. Libya has continued to suffer from an embargo based on the law of the jungle instead of on legitimate legal authority.

Fifth, as the international community sees the justice of Libya's case, and since it cares enough about the United Nations to prevent the Security Council from being used for political purposes, particularly given the absence of a balance within the Organization during this decade — regional organizations put forward a number of proposals and undertook a number of initiatives during the past seven years. Those proposals and initiatives,

however, were completely disregarded by the other two parties to the dispute.

Sixth, in the face of that disregard, regional and international organizations have been compelled to develop their positions, urging the Security Council — which under the Charter acts on behalf of the international community — to impose its will. On 27 February 1998 the International Court of Justice issued a judgment against the United States of America and Great Britain, reasserting its jurisdiction over the case on the basis of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie, and rejecting the appeal put forward by the two other States contesting that jurisdiction. Strong support for the Libyan position was expressed by the international community during the plenary meeting of the Security Council on 20 March 1998. Despite the complete disregard of all the proposals, initiatives and appeals it had made over the past few years, the Organization of African Unity issued a declaration in Ouagadougou. The ministerial summit of the Non-Aligned Movement held in Cartagena made a recommendation on the issue.

Seventh, after all that time, in view of those developments, the other side finally stated that it would agree to a trial being held in a third country. Three days ago, on Monday, 24 August, a draft resolution was placed before the Security Council. On Wednesday, the draft was formally introduced in the Council, and a vote was requested for today.

Eighth, Libya received the text of the letter to the Secretary-General from the other parties and the accompanying documents on the evening of Monday, 24 August, three days ago. It was asked to express its agreement even before those documents were translated into Arabic.

Ninth, Libya and the international community had been waiting for years for responses to their proposals. When the other side finally agreed to our proposal last Monday, it added a number of legal documents to it and expected my country, the Security Council and the international community to agree within hours to what had been delayed for many years.

Tenth, on the basis of our experience with the other side — experience going back well before this dispute — we have had substantive fears ever since the declaration made in *The Guardian* on 21 July 1998, which was followed by formal declarations on the issue. We do not say this today only. We said it that same week to the President of the Security Council for July, Ambassador Lavrov, and we said it to all the members of the Security Council, with whom we requested a meeting and did meet during that period. We said the same thing to Secretary-General Kofi Annan during a meeting held for that purpose alone. We also expressed this position in our letter to the members of the Security Council and the members of the five-, six- and seven-member committees created by the Organization of African Unity, the Non-Aligned Movement and the Arab League on the subject. That letter expressed our major fears and concerns pertaining to the Lockerbie issue. The United States and the United Kingdom have expressed their official position pertaining to the trial of the two suspects in The Hague; however, the following comments are very important in judging the seriousness of their commitment to justice.

Our major fears and concerns in connection with this issue have to do with the Ouagadougou proposals that were put aside, the Non-Aligned Movement summit in South Africa, maintaining sanctions and alienating the international community and regional organizations from Libya.

The acceptance of a trial in a neutral country means that judicial authorities in that country are empowered to hold the trial because it is on a pure, technical legal issue. In addition to the law and judges, there are many other very complicated, detailed issues that must be taken up from a strictly judicial point of view. The rights of the two suspects must be maintained and defended at all times. The two States concerned must arrange for extradition. Investigation and trial procedures and judicial background must be set forth. In the case of acquittal or conviction, what are the responsibilities of the two parties? There are yet other technical issues, and all the judicial authorities in the countries concerned need to come to agreement about these matters.

Further, the sanctions must be lifted or suspended at least. No text of any Security Council resolution mentions extraditing suspects to judicial authorities. Who is responsible for such an extradition, and what are the judicial procedures for it? Regional organizations, particularly the Organization of African Unity and the League of Arab States — the originators of various proposals — must play an essential role in the subsequent steps as well as witness all procedures. Finally, the organizations concerned must maintain their positions in order for the two suspects to be tried and sanctions to be lifted. That is what we said last month before expressing our formal position.

When expressing those concerns, and before the other party in the dispute had expressed its formal position, it was the intention of my country, as we repeatedly said at the time to the presidency and members of the Security Council and to the Secretary-General, to avoid any difficulties or obstacles that would complicate the issue and return it to the starting point. Our concerns were serious and legitimate.

To insist on placing all the parties in a difficult situation, and to impose a requirement for acceptance within hours — despite the fact that there is surely a need for all to have adequate time to examine all the legal documents, which are very complicated — merely adds to both our past and present doubts. The other party suspended consideration in the Security Council of the two judgments made by the International Court of Justice under the pretext that it required sufficient time for experts to look into the two judgments. The same argument applies today.

In the light of what I have said, the Libyan Arab Jamahiriya would like to make several comments before the Security Council. First, we welcome the acceptance by the United States of America and the United Kingdom of the proposals already made by the League of Arab States and the Organization of African Unity (OAU) and supported by the Organization of the Islamic Conference (OIC) and the Non-Aligned Movement more than four years ago. We believe that this acceptance is a positive step likely to result in a satisfactory and just solution for all to this long-standing dispute — a dispute from which our people, as well as the families of the victims, have suffered.

Secondly, the Libyan Arab Jamahiriya accepts that the two suspects should be tried in a Scottish court in the Netherlands by Scottish judges, according to Scots law. We reaffirm this position today; we have already stated it, as has been officially recorded in the Security Council. This is a serious, irreversible position. We hope that the other party is also serious in its position. There is still an important issue that must be formally reaffirmed before the Security Council — an issue we have taken up with the Council and with the Secretary-General many times. From today, the issue will return to its original status as a strictly legal matter.

The judicial authorities in the two other countries considered the legal aspect of all the documents accompanying the letter from the two States to the Secretary-General, and this was reaffirmed in the statements made by various officials, particularly the statement made a few weeks ago by Ms. Reno, the Attorney-General of the United States of America. Likewise, the Libyan judicial authorities now have the duty and right to consider the different procedural and legal issues pertaining to the different arrangements and judicial aspects. For our part, we are prepared to undertake such considerations either directly with the judicial authorities of the States concerned or through the Secretary-General.

We look forward to closing the entire file on this matter. Libya has proved its seriousness and flexibility throughout every stage. We reaffirm to the Council that we shall remain serious and practical during the next stage.

I should like to make several comments about the draft resolution before the Security Council, in order to underline our seriousness and our legitimate concerns. The language of the draft resolution gives legitimacy to our concerns. By recalling previous Security Council resolutions, the first preambular paragraph gives the impression that the resolutions have been implemented neither in part nor in their entirety, although my country has fully responded to those resolutions. By referring to Chapter VII of the Charter of the United Nations, the fifth preambular paragraph again places the issue outside its proper context, especially since the intervention of the Security Council in this matter may be considered procedural, taking into account the judgment of the International Court of Justice.

Operative paragraph 1 of the resolution demands once again that the Libyan Government immediately comply with resolutions 731 (1992), 748 (1992) and 883 (1993) and makes no mention at all of Libya's actions in the field of terrorism: its cooperation with the United Kingdom on relations with the Irish Republican Army; the denunciation and condemnation of terrorism; the demand for the dispatch of an international commission to ascertain that Libyan territory does not have any terrorist training camps; the call for the convening of an international conference on terrorism; and judicial cooperation with France to bring to a close an international issue through an investigative judge who expressed his satisfaction for this cooperation in a letter to the Foreign Minister of his country.

Operative paragraph 2 welcomes the letter from the representatives of the United Kingdom and the United States, and also refers to arrangements that took place

between the United Kingdom and the Netherlands, in which Libya did not participate. Paragraph 3 calls on the Governments of the Netherlands and the United Kingdom to undertake the necessary measures to implement the initiative, without mentioning the United States of America, which might therefore consider that it has not committed itself to any agreement between the Netherlands and the United Kingdom.

Paragraph 4 decides that Libya shall ensure the appearance in the Netherlands of the two accused for the purpose of trial and that it shall present any evidence or witnesses; but it does not provide for any assurances or special arrangements with regard to the two accused or the witnesses.

Paragraph 5 requests the Secretary-General to assist Libya with transferring the two accused from Libya to the Netherlands. However, there are no guarantees or arrangements pertaining to the period of the trial itself.

Paragraph 6 does not set out the tasks of the international observers, state how many of them there should be or mention the effect that their views may have on the trial. Paragraph 7 does not mention Libya or any arrangements with the Netherlands on transferring the two accused; it does not mention their safety or residence or provide any guarantees to them. Paragraph 8 refers to the appearance of the two accused before an appropriate court in the United Kingdom or the United States at any time. While the United States is not party to the agreement with the Netherlands, article 16 (2) of the agreement does provide for the possibility of extraditing the two accused to the United Kingdom.

Paragraph 9 pertains to additional measures that may be undertaken; this is particularly worrying, as no dialogue or consultations have taken place with Libya to date.

In conclusion, my country reaffirms its seriousness and eagerness to close this file and open a new page in its relations with the United States and the United Kingdom, based on mutual respect, non-interference in internal affairs, and dialogue and mutual benefit, instead of embargo. We hope that the other party will now show the same eagerness, desire and earnest.

We salute the international community and thank it for its consistent and ongoing support. In particular, we thank the international and regional organizations, especially the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement and all its members, as well as all the States and organizations that supported us within and outside the Security Council.

We thank you, Mr. President, and the members of the Security Council for this opportunity to convey our position and concerns before the Council. In particular, we thank and salute the members of the Security Council that stood by my country in its legitimate stance against injustice and offer them our wholehearted gratitude.

We cannot fail to convey our thanks and appreciation to Secretary-General Kofi Annan for his continuing efforts to find a solution to this issue. We reaffirm the importance of his role and reiterate our readiness to cooperate with him in seeking appropriate and practical means to close the file under consideration.

The President: I thank the representative of the Libyan Arab Jamahiriya for his kind words addressed to me.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote.

There being no objection, it is so decided.

I shall first give the floor to those members of the Council who wish to make statements before the voting.

Mr. Burleigh (United States of America): With the expected adoption of this draft resolution, the Security Council will take an important step towards obtaining a measure of justice for the victims of the Pan Am flight 103 bombing and their families.

The arrangements endorsed in this draft resolution will assure a fair trial for the two Libyan suspects. The proceedings will be consistent with the requirements of United Nations resolutions as well as United States, British and Dutch law. The terms of the draft resolution and modalities of the trial have been carefully crafted by legal experts and are based on the decisions of the international community, as reflected in Security Council resolutions 731 (1992), 748 (1992) and 883 (1993).

We thank the Government of the Netherlands for helping to bring about the arrangements endorsed in this draft resolution.

We deeply regret the hostile and negative content and tone of the Libyan representative's statement tonight. What we need now from the Libyans is not aggressive, equivocal or conditional statements, but simple, straightforward acceptance. Chapter VII resolutions are mandatory on all Member States, including Libya. We look now to the Libyan Government for prompt action. We expect its deeds to be the proof of its stated intentions.

The Libyan representative raised a question as to whether the United States would feel bound by all the elements of this draft resolution. It goes without saying, but let me say it anyway: I can assure him that we do.

Let us not mince words. For Libya, dealing positively with this draft resolution can mean one thing and one thing alone: ensuring that the two suspects appear to stand trial in the Netherlands without delay.

The international community has heard the Libyan Government repeat, on numerous occasions, its explicit commitment to cooperating in bringing the defendants to trial under Scottish law, with Scottish judges, in a neutral third country. Senior Libyan officials have made that commitment on the record many times, including the Libyan Foreign Minister's personal pledge to this Council just last March. Now Libya will be required to live up to that pledge.

The United States, the Security Council and the world community are watching. Most importantly, the family members of the 270 victims of the Pan Am flight 103 bombing are watching. Failure by Libya to act promptly to ensure the appearance of the defendants would be a monumental breach of faith which would compel the Security Council to act appropriately in response. We hope that will not be necessary.

In recent years, a number of nations and regional Organizations — including the Arab League, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement, which is about to convene an important summit conference in South Africa — have endorsed exactly the sort of arrangements contained in this draft resolution. They have urged the United States and the United Kingdom to adopt this approach. We have listened to their views and responded.

We now call upon those nations and organizations, in turn, to urge Libya in the strongest terms to turn over the two defendants for trial without delay. Just as we will be watching Libya's response to this draft resolution, we will be carefully gauging the response of those nations and those organizations. we expect unhesitating and unequivocal support for this draft resolution. The victims of the Pan Am flight 103 bombing and their surviving family members deserve nothing less.

I would also reaffirm United States support for France in its ongoing investigation of the UTA bombing. As we look forward to convening the trial of the Pan Am flight 103 defendants, we will continue to support France's demand for Libya's full cooperation on the question of UTA flight 772.

It has been nearly 10 years since the terrorist bombing of Pan Am flight 103. Since that terrible day in December 1988, the United States, the United Kingdom, the surviving family members and the world community have suffered the frustration of a long, complex investigation and an even longer period of delay and equivocation by the Government of Libya.

This draft resolution spells out exactly what Libya must do and notes the Security Council's intention to consider further measures if the two suspects do not appear for trial promptly. We expect Libya to take the necessary steps so that the trial can proceed without further delay. The international community and the families of the victims have waited long enough.

Mr. Monteiro (Portugal): Last March, in an open debate on this item, Portugal welcomed the proposals put forward by the Organization of African Unity and the League of Arab States to find a compromise solution to the question of the bombing of the Pan Am and UTA flights. Those proposals, aimed at avoiding further delays in the serving of justice and at putting an end to the suffering of the Libyan people, were envisaged by Portugal as a constructive political effort.

We believe that justice delayed is justice denied, first of all, to the relatives of the victims suffering the loss of their beloved. Justice delayed is justice denied also to the whole international community defending itself against terrorism and upholding international law. Finally, justice delayed is justice denied also to the innocent Libyan people, who are enduring sanctions imposed on their country.

Any compromise solution should obviously be consistent with the legal and political dimensions enshrined in the Security Council's resolutions. And we

should not lose sight of our goal of enabling justice to be rendered.

We were convinced, then, that the time had come for the United Nations, and the Security Council in particular, to find more efficient ways to bring this matter to an end. Today, with the adoption of this draft resolution, the Security Council will show that it is up to the challenge. The members of the Council have proved to be open to positive and serious proposals. My delegation acknowledges, in particular, the efforts undertaken by the United Kingdom and the United States to find alternative solutions that will enable the Council to respond fully to the concerns of the international community.

By adopting this draft resolution, the Council will open the way to bringing to trial the two persons charged with the bombing of Pan Am flight 103, a hideous crime that has gone unpunished for almost 10 years now. In this trial, the accused will enjoy fully the rights enshrined in the European Convention on Human Rights, as that instrument continues to apply to procedure in accordance with Scottish law. The solution found could not be more reassuring that the accused will enjoy a fair trial.

The Council is responding with a position of openness and dynamism to the will of the international community. That is, after all, the role of the Security Council, upon which the general membership of the United Nations, under the Charter, has conferred the primary responsibility for the maintenance of international peace and security. We shall always recall that in performing that role the Council acts on their behalf.

My delegation commends the Governments of the United Kingdom and of the United States for this positive step. We also would like to thank the Government of the Netherlands for its indispensable cooperation. We welcome the positive response of the Libyan Government. The solution that has been put forward reveals the vitality of the Council. Today, through the Council's decisive action, justice will finally be able to emerge and sanctions to be lifted.

We are confident that the opportunity afforded by this draft resolution, which my Government fully supports, will not be missed.

Mr. Thiebaud (France) (*interpretation from French*): The French Government immediately welcomed the initiative announced by the authorities of the United States and of the United Kingdom to hold the Lockerbie trial in a third country, in this instance the Netherlands. France takes this opportunity to pay tribute to the Netherlands authorities for their readiness to cooperate.

France, the United Kingdom and the United States were all hit by acts of terrorism in the air in 1988 and 1989, and appealed to the Security Council to support their request that the Libyan Government should permit the investigation to be carried out and that justice should be done. Since then, the three countries have shown unfailing solidarity, and this is now being reaffirmed.

The French Government takes note with satisfaction of the decision by the United Kingdom and the United States to accept one of the proposals made by a number of regional organizations and officially accepted by the Libyan Government: to try the two suspects in the Lockerbie attack in the Netherlands before a Scottish court and in accordance with Scottish law. My Government expects the Libyan Government to fulfil the commitments it has made in the past and to act upon the positive reaction the Libyan authorities gave yesterday, which was reaffirmed this evening before the Council.

The French authorities have regularly kept the Security Council and the Secretary-General informed about developments in the investigation into the attack on UTA flight 772, most recently on 6 November 1997. Naturally, we shall continue to transmit to the Security Council and to the Secretary-General new information that should be brought to their attention.

We recall that the draft resolution to be put to the vote this evening modifies the conditions for suspending sanctions as regards the holding of the trial in the attack of Pan Am flight 103. The other provisions of resolution 883 (1993), relating to cooperation with the French judicial authorities and to the final lifting of sanctions against Libya, are not affected by the text before us today, in favour of which my delegation will be voting.

Mr. Amorim (Brazil): Five months ago, during the open debate on the letters dated 20 and 23 December 1991, from France, the United Kingdom of Great Britain and Northern Ireland and the United States of America, the Brazilian delegation expressed its hope that the international community, with the cooperation of the Government of Libya, would be able to ensure that, in a fair and transparent way, responsibility for the terrorist attacks against Pan Am flight 103 and UTA flight 772 would finally be established by means of a fair trial.

Recent developments have brought us closer to that moment. We praise the Governments of the United States and of the United Kingdom for the flexibility which they have shown in accepting one of the compromise solutions supported by a great number of Member States and by several organizations, whose efforts also deserve our recognition. The Government of the Netherlands is also to be commended for providing assistance in a creative way to enable a foreign court to exercise jurisdiction in its territory. We hope that, in the same spirit, the Government of Libya will offer its full cooperation in the next steps that are required. We note that Libya has already announced its acceptance of the development in the positions of the Governments of the United States and of the United Kingdom and has confirmed that it would deal positively with it.

It is important to note that diplomatic efforts, including consultation and dialogue, have proven to be essential tools for the devising of a solution which, being acceptable to all parties involved, has the best of prospects of being implemented.

The performance by Libya of actions specifically set out by Security Council resolutions, including the one which we are about to adopt, will allow sanctions to be suspended with a view to their being lifted. Paragraph 8 of the draft resolution before the Council, which refers in turn to paragraph 16 of resolution 883 (1993), is clear in this respect. We stress also the role of the Secretary-General specified in the draft resolution, notably in paragraphs 5, 6 and 8. Like others, we strongly hope that the intention expressed in paragraph 9 need not materialize.

Five years ago we indicated our conviction that the imposition of sanctions must always be linked to the performance of limited, concrete and specific acts that are required as essential by decisions of the Security Council. Such acts must be specifically set out by the Council so that the State on which sanctions are imposed may be able to know in advance and beyond all doubt that the sanctions will be lifted as soon as those specific requirements are met. It is with the same conviction that we will vote in favour of the draft resolution before us.

We take this opportunity to reiterate our strong condemnation of terrorist acts of any kind, committed for whatever reason, as well as our commitment to international cooperation to eradicate this scourge, in accordance with the principles of the Charter and in the framework of international law. Finally, we would also like to reiterate our deepest sympathy to the families of the victims, who have the legitimate right to expect that justice should be done.

Mr. Lavrov (Russian Federation) (*interpretation from Russian*): Russia is deeply committed to rooting out international terrorism. We favour comprehensive intensification of coordinated international efforts to combat a scourge that undermines the safety of individuals and the stability of States and of entire regions.

The Security Council must continue to give top priority to this problem. Here we also reaffirm our consistent position that Security Council resolutions on the Libyan question must be implemented.

Since the imposition of sanctions, Libya has made progress towards fulfilling the requirements set out in resolutions 731 (1992) and 748 (1992), which relate to the condemnation of terrorism and to the provision of information on this subject. Thanks to Libya's cooperation, the investigation into the UTA flight 772 incident is being successfully concluded.

At the same time, the deadlock in the Lockerbie case, which has existed for many years, has prevented complete compliance with those Security Council resolutions. As a result, the sanctions regime against Libya has been maintained. Russia has consistently said that it favours searching for mutually acceptable solutions on the venue and format of the trial of the two suspects.

Initiatives on possible scenarios for holding the trial have been put forward by the League of Arab States, the Organization of the Islamic Conference, the Organization of African Unity and the Movement of Non-Aligned Countries; these are well known and have received broad international support. We consider that the present initiative by the United States and the United Kingdom is, broadly speaking, on the right track. It is essentially based on one of the options that had been proposed: that the trial should be conducted in a third country, before a Scottish court and in accordance with Scottish law.

The draft resolution under consideration by the Council today is aimed at putting that option into practice. We believe that it will ensure a fair trial, with proper guarantees of the legal rights of those who appear before the court as accused or as witnesses. It is extremely important that, as soon as the two suspects arrive in the Netherlands, the sanctions regime against Libya should be terminated.

Agreement on the draft resolution confirms that this is the only way — by stepping up all-round interaction among States and on the basis of the norms of international law — that we can put a firm halt to international terrorism.

On the basis of these points, the Russian delegation will vote in favour of the draft resolution which, given the sensitivity of this problem, is the result of a difficult compromise by all interested parties. This decision by the Security Council paves the way not only to resolving the Lockerbie case, but also to the final closing of the Libyan problem in the Security Council, as envisaged by the appropriate decisions of the Council.

It is particularly important to have the cooperation of all sides in implementing the draft resolution we are to adopt today. In this connection, we welcome the Permanent Representative of Libya's expression of his country's willingness to cooperate with the Secretary-General of the United Nations in order to fulfil the procedures envisaged in this draft resolution.

Mr. Konishi (Japan): In the years since the Pan Am flight 103 and UTA flight 772 were downed, various ongoing efforts have been made to clarify the facts surrounding the disasters, among whose victims was a Japanese national. Nearly seven years ago, two persons were accused of the terrorist attacks, and the Security Council has sought through its resolutions 731 (1992), 748 (1992) and 883 (1993) to bring them to trial in an appropriate court of either the United Kingdom or the United States. Japan, which vigorously condemns terrorism in all its forms, has appealed repeatedly for the Libyan Government to comply with the requirements of those resolutions. Regrettably, the Libyan Government failed to do so, and efforts to bring the crime to justice seemed to be hopelessly deadlocked. Such a prolonged stalemate is also undesirable from the viewpoint of the authority of the Security Council and the United Nations system.

Japan recognizes that it was under these circumstances that the United Kingdom and the United States announced the exceptional initiative of arranging for a trial of the suspects before a Scottish court sitting in the Netherlands — an initiative which is in line with the proposal of the League of Arab States, for which the Libyan Government has already indicated its support and which has been endorsed by the Organization of African Unity, the Organization of the Islamic Conference and the Movement of Non-Aligned Countries.

We pay high tribute to the United Kingdom and the United States for their determination to resolve this deadlock situation and thus maintain the authority of the Council. Japan also commends the Kingdom of the Netherlands for its cooperation in this complex and difficult arrangement.

Japan welcomes Libya's confirmation, in its statement of 26 August, with respect to the United Kingdom/United States proposal that,

> "it will deal positively with this step and will give it the attention it deserves",

and hopes that it will respond promptly and positively to the initiative by delivering the suspects. In doing so it will pave the way for the resolution of this tragic situation and for the lifting of the sanctions under which its people have been suffering, both of which the international community — including Japan — has long been waiting for. It is in the hope of moving forward towards the resolution of the situation that Japan supports the adoption of this draft resolution.

Mr. Dahlgren (Sweden): International terrorism constitutes a threat not only to individual lives, but also to international peace and security. This was true 10 years ago and is still true today, as we unfortunately have just recently experienced.

The search for clarity and justice in the cases of Pan Am flight 103 and UTA flight 772 has never ceased. We owe this to the victims, some of whom were Swedish citizens, and to their families. For the future, it is also crucial that instigators and perpetrators of acts of terrorism be made to understand that the international community is fully committed to bringing them to justice and preventing such cowardly acts from recurring.

In the case of Pan Am flight 103, the refusal of Libya to surrender for trial the two suspects prompted the Security Council to impose sanctions on Libya. In the light of the previous lack of progress on this issue, my Government warmly welcomes the initiative now taken by the United Kingdom and the United States, in close cooperation with the Netherlands, which will open the way for a trial before a Scottish court in the Netherlands.

The initiative now taken is fully in line with proposals previously put forward by, *inter alia*, the Arab League and the Organization of African Unity, and which have been accepted by Libya. We were glad to hear that

acceptance repeated tonight. Sweden now urges Libya to cooperate fully so that the draft resolution we are about to adopt can be implemented without further delay. That draft resolution means that the sanctions imposed on Libya will be suspended immediately when the Secretary-General reports that the two Lockerbie suspects have arrived in the Netherlands for the purpose of the trial and that the Libyan Government has satisfied the French judicial authorities in the UTA case. My Government sincerely hopes that Libya will promptly seize this opportunity so that justice can finally be done.

Mr. Touray (Gambia): Almost 10 years ago, Pan Am flight 103 was brought down over Lockerbie, in Scotland, killing all 259 passengers and 11 other people. Since then the families of the deceased from this tragedy endured untold grief as they waited for justice to be meted out. Three years later, the Security Council came up with three resolutions requiring Libya to produce the two persons accused of the bombing of the Pan Am flight for trial in the United Kingdom or in the United States, failing which sanctions were imposed against Libya.

Libya has been under excruciating sanctions for seven years. These sanctions have brought untold suffering to the Libyan people — especially to women and children — and have virtually crippled its aviation infrastructure. The Petrovsky report attests to this fact.

On numerous occasions in the Security Council, we have advocated a speedy resolution to the impasse that was created by the imposition of the sanctions. We have always emphasized that a solution agreeable to both parties would be mutually beneficial, as justice would be done for the bereaved persons and Libya would be relieved of the bite of the sanctions.

In a bid to find a solution to this impasse, the Organization of African Unity, the League of Arab States and the Movement of Non-Aligned Countries came up with an initiative that would allay the fears of the Libyan authorities for a just and fair trial and would also ensure justice to the bereaved persons for the crimes done. This initiative resulted in the proposal that a trial be held in a third country — in the Kingdom of the Netherlands — by Scottish judges and according to Scots law and procedure. The Libyan authorities have since indicated their acceptance of this proposal on several occasions. The latest was on 26 August 1998.

The draft resolution under consideration today is a historic one. It is historic because it is setting the stage for the possibility of the resumption of normal life in Libya without sanctions and of opening the doors for Libya to regain its rightful place in the international community. It is also historic because for the first time in international legal affairs a court would sit out of its jurisdiction. The decision by the United Kingdom and the United States of America to go down this road must be cheered as a heroic move geared towards putting to rest a problem that has bedevilled us all for 10 years. It is a bending-over-backwards to accommodate an initiative which is far from ordinary.

The Gambia, being one of the main advocates of the initiative, congratulates the Governments of the United Kingdom of Great Britain and Northern Ireland and of the United States of America for their understanding and cooperation in these difficult times.

The time for justice has come. The time for making good on promises made in the past is also here. My delegation, having had friendly and fraternal ties with Libya, has no doubts that it is good at keeping promises. We have no doubt that it will comply with its obligations, as it has always done.

My delegation will vote in favour of the draft resolution.

Mr. Buallay (Bahrain) (*interpretation from Arabic*): My country condemned the Lockerbie incident, a terrorist act, just as we condemn all forms of terrorism and all perpetrators and abetters of terrorism as well as those who give them safe haven. We reiterate our condolences to the families of the victims, we reaffirm our sympathy with them, and we hope that the day is near when justice will prevail. We reiterate also our call for the convening of an international conference to combat terrorism.

After years of deadlock in the Security Council, despite the many efforts deployed during that time, and the imposition of sanctions on the Libyan Arab Jamahiriya because of the suspected involvement of two of its citizens in the Lockerbie incident, today a positive development is taking place: the United States-United Kingdom initiative, one of three initiatives put forth by the League of Arab States to resolve the Lockerbie issue. My country also welcomes Libya's positive response to the initiative, which it had previously accepted when it was set forth initially.

The draft resolution before the Security Council today calls for suspending the sanctions imposed on the

Libyan Arab Jamahiriya if the two suspects appear to stand trial. We all hope that this will be the first step towards the lifting of the sanctions and towards the definitive closing of the Lockerbie file.

The imposition of sanctions cannot be unlimited, without a clear objective and a set deadline with a beginning and an end, because that would cause the citizens of the country on which sanctions are imposed to suffer increasingly with the passage of time. Thus sanctions, to have an effect, must have an objective and a set deadline.

The issue of the trial of the two accused, according to the United States-United Kingdom initiative accepted by Libya, involves a number of legal procedures, and we hope that the parties concerned will reach agreement thereon. We hope also that adequate preparations will be made in order for the trial to take place in a positive atmosphere, thus assuring the parties and the international community that the desired results will be achieved.

In this context, we reaffirm the need for cooperation by the parties concerned in making the arrangements necessary for the trial to take place and reach a successful conclusion. That will make it possible to close the Lockerbie file and lift the longstanding sanctions so that the Libyan Arab Jamahiriya may resume its national development and its role in the international community's efforts towards international peace and security.

Mr. Sáenz Biolley (Costa Rica) (*interpretation from Spanish*): We are meeting today to adopt a creative solution to the conflict that arose following the reprehensible terrorist attacks on Pan Am flight 103 and UTA flight 772, a solution that will allow for a prompt end to be put to the sanctions regime imposed by the Security Council on Libya through its resolution 883 (1993). Today we will adopt a draft resolution that will allow for the immediate reintegration of Libya into the international community.

At the outset we must not forget that the imposition of the sanctions regime against Libya is the result of two very serious criminal acts carried out against two commercial airliners that took the lives of 441 innocent people and caused thousands of families pain and suffering. Those acts are crimes that cry out for justice. Costa Rica today remembers those victims and, by adopting this draft resolution, reaffirms its faith in the validity of law and justice as the best tribute that we can pay to those victims.

My delegation has repeatedly reaffirmed that preventing, combating and eliminating international terrorism in all its forms and manifestations are essential elements in the maintenance of international peace and security. Similarly, we have reiterated my Government's condemnation of all States that provide safe haven, support or assistance to those who plan, organize or participate in terrorist acts. We believe that those activities should be condemned and combated by the international community as a whole and that they must be prevented and punished using all available legal and political means, such as international legal and judicial cooperation, but without resorting to unilateral actions.

In this context, we welcome in particular and will vote in favour of the draft resolution before us, because it represents an intelligent legal solution to a longstanding legal problem. This draft resolution will make it possible for those accused of committing the terrorist act against Pan Am flight 103 over Lockerbie to be brought to justice in a Scottish court sitting in the Netherlands.

Costa Rica also sees this draft as the logical yet overdue result of a sanctions regime and the process of dialogue that it must stimulate. My delegation has stated on several occasions that although we accept sanctions as a means of legitimate collective defence for the international community, recognized and established in the Charter of the United Nations, any sanctions regime must be carefully designed to comply with its prime objective of modifying illegal policies of a given Government. That is the sole valid objective of sanctions. From that standpoint, sanctions must always be a temporary regime; in no circumstances can they become a form of punishment for the innocent civilian population. For that reason and in order to assist the State subject to sanctions in modifying its illegal policies, any sanctions regime must be accompanied by active and ongoing dialogue between the parties. Only in this way can that State be reintegrated into the international community.

In this particular case my delegation wishes to express its gratitude for the considerable contributions made by the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Non-Aligned Movement and for their useful and positive input into this process of dialogue. It is thanks to them and to their creative contributions that today we are able to adopt this draft resolution. It was in those forums that the basic idea arose for the agreement we are adopting today and which Costa Rica has consistently supported in recent months.

Likewise we wish to express our gratitude for the goodwill of the United Kingdom and the United States in accepting this proposal and in allowing justice to pursue its course in the best interests of the victims of those regrettable incidents.

We welcome the kind offer of the Netherlands to host this court, and we have confidence in the guarantees it has provided regarding the accused as well as the participation of international observers who will bear witness to impartiality of the proceedings.

We express our satisfaction at the decision by Libya to accept this solution fully and without conditions. In this context, we recall the words of Mr. Muntasser, the Secretary of the General People's Committee for Foreign Affairs and International Cooperation of the Libyan Arab Jamahiriya, who on 20 March 1998 in this very forum affirmed that Libya agreed to the accused being tried in The Hague by Scottish judges in accordance with Scottish law, and reaffirmed its acceptance of any of the alternatives proposed by the League of Arab States. Costa Rica has no doubt that the Libyan authorities will keep their word.

Finally, Costa Rica reiterates its full trust in the Scottish judicial system and in the European system of numan rights, which will guarantee, as stated by Messrs. Dumbutshena and Schermers in their report, absolute respect for the fundamental rights of the accused and the strictest compliance with the basic principles of due process.

Mr. Dangue Réwaka (Gabon) (*interpretation from French*): The decision of the American and British Governments to agree to have the two Libyans suspected of carrying out the attacks against UTA flight 772 and Pan Am flight 103 tried in the Netherlands by Scottish judges in accordance with Scottish law responds to one of the proposals made on several occasions by both the Organization of African Unity and the League of Arab States. We can only welcome this decision.

In fact, this decision may make possible a resolution of this dispute, which has lasted for 10 years and which has threatened to affect international relations.

Similarly, it gives hope to the families of victims, who have waited for so long for justice to be done, and to the Libyan people, who have suffered so much from the negative effects of sanctions.

For our part, we are convinced that the parties will do their utmost to ensure that a solution is found to the technical issues inherent in the specific nature of the court provided for in paragraph 2 of the draft resolution before us which will lead the Council to lift the measures taken in accordance with resolutions 748 (1992) of 31 March 1992 and 883 (1993) of 8 November 1993.

Finally, we request the Secretary-General to ensure that all security conditions will be guaranteed for the two accused upon their arrival in the Netherlands and throughout the trial. It is in this spirit that my delegation will vote in favour of the draft resolution before us.

Mr. Shen Guofang (China) (*interpretation from Chinese*): China has all along called for all the parties concerned to take a flexible approach and respond to the constructive proposals by the Arab League and the Organization of African Unity (OAU) so as to find an early solution to the Lockerbie issue. On the basis of this position, the Chinese delegation welcomes the latest positive development on the issue and the spirit of compromise displayed by all the parties concerned. We express appreciation to the Arab League, the OAU and the parties for their effective work over this long period.

The facts prove that only by pursuing peaceful diplomatic efforts and cooperation can effective ways be found to solve international disputes.

We hope that all parties involved in the Lockerbie case will continue to act in a positive and flexible spirit and, through dialogue and consultations, will reach an agreement on all the details, with a view to starting the trial proceedings as soon as possible.

China is strongly opposed to any form of terrorism. We must strengthen international cooperation to eradicate this scourge. We condemn the disaster over Lockerbie, which occurred 10 years ago, and we are deeply concerned about the long delay in resolving the case.

We hope that the draft resolution before us will further promote cooperation among all the parties and facilitate the early determination of truth so that perpetrators will be punished in accordance with the law, international justice will be upheld and the families of the victims will feel that justice has been served.

The Chinese delegation hopes that the current positive development on the Lockerbie case will facilitate the early lifting of sanctions against Libya. The

humanitarian consequences for the Libyan people of the protracted sanctions cannot be ignored. It is our hope that the latest development and the cooperation from Libya will make it possible for the Council to take an early decision on the lifting of sanctions.

For these reasons, my delegation will vote in favour of the draft resolution before us.

We would like to thank the sponsors of the text for having incorporated some of our proposals. However, I would like to point out that some elements of the text could have been improved, so as to create a better climate for resolving this question. We regret that the sponsors have not incorporated some other constructive proposals from our side in the text.

Finally, I would like to repeat that there has been no change in China's reservations concerning resolutions 748 (1992) and 883 (1993) referred to in the text.

The President: I shall now make a statement in my capacity as the representative of Slovenia.

Slovenia warmly welcomes the decision by the United Kingdom and the United States to agree to an arrangement to hold the trial of the two accused Libyan nationals in the Lockerbie case before a Scottish court sitting in the Netherlands. Slovenia also commends the Government of the Netherlands for its willingness to facilitate such a trial.

We believe that this constructive and innovative arrangement opens a new way towards a final settlement of the Lockerbie case, a settlement long overdue. After almost 10 years since the brutal terrorist attack on the Pan Am plane, there is now renewed hope that justice will be served.

The initiative of holding a trial in the Netherlands before the panel of Scottish judges and under Scots law corresponds to one of the options which have been advocated as proposals for a possible solution by the League of Arab States, the Organization of African Unity, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference. Indeed, Libya itself has repeatedly, including recently, endorsed those options. Therefore, there is every reason to expect that Libya will embrace the present initiative.

The United Nations has an important role to play in this development. With the adoption of the draft resolution before us, the Security Council will pave the way for a trial by enabling the countries concerned to take all the necessary steps to implement the initiative. In addition, the draft resolution requests the Secretary-General to assume a pivotal role in assisting in the arrangements for the safe transfer of the two accused, as well as to nominate international observers to attend the trial.

The initiative presented to the Security Council has been meticulously elaborated. We are confident that it provides for a fair and impartial trial, with all the necessary guarantees. It also renews and strengthens the prospect of the suspension and, ultimately, lifting of the sanctions imposed against Libya.

It is now up to the Libyan side to seize this opportunity and do its part for the success of this initiative. We note with satisfaction the statement issued yesterday by the General People's Committee for Foreign Affairs and International Cooperation announcing the acceptance by Libya of this development. We were glad to hear this position reiterated by the representative of Libya tonight. We strongly call upon the Libyan Government to ensure promptly the appearance of the two accused in the Netherlands for the purpose of trial. In so doing, Libya would fulfil its own promises. Moreover, this is the way for Libya to achieve suspension and the lifting of the sanctions, which would bring an end to the unnecessary suffering of its people.

Finally, I wish to emphasize that the draft resolution proposed for action tonight represents an important contribution to the work of the Security Council. It provides an example of a wise decision, opening up new opportunities for the resolution of several problems on the Council's agenda. The Council should be able to act with the same wisdom whenever required. Slovenia will vote in favour of the draft resolution.

I now resume my function as President of the Council.

I now put to the vote the draft resolution contained in document S/1998/809.

A vote was taken by show of hands.

In favour:

Bahrain, Brazil, China, Costa Rica, France, Gabon, Gambia, Japan, Kenya, Portugal, Russian Federation, Slovenia, Sweden, United Kingdom of

Great Britain and Northern Ireland, United States of America

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1192 (1998).

I shall now call on those members of the Council who wish to make statements following the voting.

Mr. Gomersall (United Kingdom of Great Britain and Northern Ireland): The terrible acts of terrorism this month in Nairobi, in Dar es Salaam and in Omagh in Northern Ireland are a stark reminder that terrorism spares nobody. They also remind us that terrorism will not be defeated unless those responsible are brought to justice.

It is almost 10 years since Pan Am flight 103 was blown up over the town of Lockerbie in Scotland. In this, and in the UTA bombing, a total of 440 innocent people were killed. These were among the most savage acts of terrorism and premeditated mass murder. For almost 10 years the families of the victims have been seeking justice.

It is seven years since warrants were issued for the arrest of two Libyan nationals in connection with the destruction of Pan Am 103. Since then, Libya has persistently failed to carry out its obligation to hand over the two accused for trial despite binding resolutions of this Council requiring it to do so. In March 1992 the Security Council demanded that the accused be handed over for trial. For six years Libya has disregarded its obligation as a Member of the United Nations to comply with that demand.

Over the years my Government gave repeated assurances about the guarantees for the accused under Scots law. Throughout this same period Libya has repeatedly stated that it would accept a trial before a Scottish court sitting in a third country. Mr. Omar Muntasser, Foreign Minister of Libya, said only last January in a letter to the President of the Security Council [*S/1998/5, annex*] that Libya

> "accepted the proposal of the League of Arab States that the two suspects should be tried by a court in a neutral country and ... that they should be tried at The Hague by Scottish judges and in accordance with Scottish law".

During the Security Council debate held last March [3864th meeting] the Libyan Foreign Minister said that the concerns about trial in Scotland of the lawyers for the two suspects related solely to the venue and have nothing to do with the judges or the law.

That the accused would receive a fair and impartial trial in Scotland with all due safeguards was confirmed by the independent experts appointed by the Secretary-General to examine Scottish legal procedures last December. We would still prefer that the two accused submit themselves to a trial before a Scottish court in Scotland. Persons accused of terrorism have no right to determine their place of trial. Nevertheless, the British Government has also been mindful of the interests of the families and of justice. We concluded finally that in order to bring to an end the years of waiting for the relatives of the victims of Lockerbie, it would be possible to arrange for a Scottish court to sit in the Netherlands. The joint United States/United Kingdom letter of 24 August and its attachments set out in transparent detail the precise arrangements whereby a Scottish court could sit outside Scotland. Today's resolution provides the basis for the necessary changes to British and Dutch law. I wish to record the British Government's deep gratitude to the Government of the Netherlands for responding positively to our request to hold the Lockerbie trial in the Netherlands.

Let no one think that this was an easy decision politically to take or legally to implement. We were conscious of the desire of the international community for justice and for an end to the stalemate. We have therefore acted on the proposal of the Organization of African Unity and the Arab League, and we have taken the necessary steps and placed our initiative before the Security Council.

The adoption of this resolution is an opportunity to resolve the matter with justice in a manner acceptable to the families and to all the parties concerned. It is also the moment of truth for Libya.

For years Libya has promised that it would accept a trial under Scottish law with Scottish judges in a third country. That way forward is now open to them. We have noted the Libyan Government's statement of 26 August that they will deal positively with this initiative. We also heard the Libyan Permanent Representative state clearly his Government's acceptance that the two accused be tried in a Scottish court in the Netherlands by Scottish judges under Scottish law. We welcome this. But what is now required is that Libya should without delay confirm through the United Nations Secretary-General its clear

and unequivocal acceptance of this and its willingness to do so speedily and without prevarication. The arrangements for the trial are clear, and there are no hidden conditions. The central requirement is the delivery of the accused to the Netherlands. The resolution makes clear that it is Libya's responsibility to ensure the appearance of the accused in the Netherlands. If the Government of Libya is willing to do this without delay, everything else will flow from that.

The resolution now adopted says clearly that sanctions will be suspended as soon as the Secretary-General is able to confirm that the accused have been delivered to the Netherlands and that the requirements of French justice have also been met. The Governments of the United Kingdom and the United States have stated their commitment to that clearly in our letter to the Secretary-General. Furthermore, once Libya accepts the proposal in its entirety we are prepared to do everything necessary to implement speedily the legal and other arrangements.

Respect for the role and decisions of the Security Council is a basic obligation and a cornerstone of international order. It is the responsibility of the whole international community to stand firm on terrorism and to pursue justice for the victims of acts of international terrorism. By this resolution the Security Council is upholding those principles. We hope and trust that those who advocated this solution will now help to deliver it.

The President: There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda. The Security Council will remain seized of the matter.

The meeting rose at 11.15 p.m.